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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1711 OF 2007
IN
WRIT PETITION NO. 1021 OF 2007

Mrs. Sangita Anand Deo ... Applicant
(Ori.Respondent)

V/s

1. Mahila Griha Udyog Lijjat Papad & anr. ... Respondents
(Ori.Petitioners)

Mrs. Sangita Anand Deo, the applicant, in person.

Mr. J.P.Cama with Ms. Pallavi Dedhia i/by Sanjay Udeshi & Co. for the respondents.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 31ST AUGUST, 2007.

P.C.:

1. The applicant is the original respondent in Writ Petition No. 1021 of 2007. By this civil application, the applicant has sought the following reliefs:-

> "(A) This Hon'ble High Court may be pleased to direct the respondents to provide the work to the applicant of a comparable status.
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> (B) This Hon'ble High Court may be pleased to direct the respondents to pay to the applicant

the salary, which she was paid at the rate of Rs.15,544/- month to month till the final disposal of the petition on merits.

(C) This Hon'ble High Court may be pleased to direct the respondents to calculate the correct amount of the back wages by taking into consideration the rate of salary/wages at Rs.15,544/- and to deposit the said amount in the Hon'ble High Court."

2. As regards prayer (B), the applicant complains that she is being paid salary of Rs.5,280/- per month without taking into account Rs.10,000/- which was illegally deducted from her wages prior to terminating her services. The Labour Court has found that the respondents had illegally deducted the same and has, therefore, held that the applicant was entitled to a salary at the rate of Rs.15,544/- per month. The applicant submits that, after she has been reinstated pursuant to the orders of this Court, she has not been paid salary at the rate awarded by the Labour Court i.e. at the rate of Rs.15,544/-. According to the learned advocate for the respondents, since the respondents disputed the applicant's right to draw a salary of Rs.15,544/-, she was not entitled to the same. He also

submits that, at the time when the services of the applicant were terminated she was drawing a monthly salary of Rs.5,280/- and, therefore, would be entitled to this amount on her reinstatement.

3. In my opinion, this submission of the learned advocate for the respondents cannot be accepted. After the order was passed by the Labour Court in Complaint (ULP) No. 491 of 2002, the respondents applied to the Labour Court to stay its order directing reinstatement with continuity of service and full back wages. The Labour Court, by its order dated 5.8.2006 stayed the order on condition that the respondents deposited the wages of one month in the Court. On 8.8.2006, the respondents submitted an application to the Labour Court signed by their Vice President in which liberty was sought to deposit the amount of Rs.15,905/- as one month’s wages payable to the applicant. Accordingly, this amount was deposited in Court and the applicant was permitted to withdraw it.

4. The submission of the learned counsel for the respondents that, only an amount of Rs.5,280/- is payable to the applicant on her reinstatement is unsustainable. The applicant has been reinstated and must be paid wages which she would be entitled to on her

reinstatement i.e. the wages including Rs.10,000/- which has been deducted by the respondents. It is only when the wages are claimed under Section 17B of the I.D. Act that the last drawn wages are payable. Therefore, the applicant must be paid wages at the rate of Rs.15,544/- per month.

5. When the writ petition was admitted by this Court on 13.3.2007, the petitioners agreed to reinstate the applicant in service pending the petition. As regards the order for payment of back wages, this Court directed the petitioners to deposit 50% of the amount of back wages in this Court, which was "roughly worked out in the sum of Rs.1,25,000/-, within a period of four weeks". The applicant herein was permitted to withdraw this amount on furnishing an undertaking.

6. According to the applicant in the civil application, the respondents i.e. original petitioners have incorrectly calculated 50% of the back wages. It is contended that Rs.1,25,000/- is less than 50% of the back wages as awarded. It is pointed out that the calculation is based on a monthly salary of Rs.5,280/- and not on the salary of Rs.15,544/- per month to which the Court has held she is entitled. The applicant also submits that the amount deposited is not correct even

assuming, without admitting, that she was drawing Rs.5,280/-. She has, therefore, sought prayer (C) to direct the respondents to calculate the back wages and deposit 50% of the amount awarded.

7. The submission of the learned counsel for the respondents is that the back wages which were directed to be deposited are calculated without including Rs.10,000/- which amount was not being paid to the applicant when her services were terminated. This submission of the learned counsel is without merit. There is an order for depositing back wages which necessarily means back wages as awarded by the Labour Court and not the back wages calculated at the rate payable according to the employer. The Labour Court has found that the wages payable to the applicant are Rs.15,544/- per month. Thus the respondents were liable to deposit back wages calculated on a monthly salary of Rs.15,544/-.

9. The civil application is, therefore, allowed in terms of prayer clauses (B) & (C).

10. As regards prayer clause (A), in my opinion, there is no need to consider prayer (A) at this stage.

11. The balance amount of back wages shall be deposited in this Court within four weeks from today calculated at the rate of Rs.15,544/- as the monthly wages.

12. Civil application disposed of.

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